

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DISH NETWORK L.L.C.

Plaintiff(s),

v.

JADOO TV, INC., et al.

Defendant(s).

Case No.

2:18-cv-09768-FMO-KS

**ORDER Re: SUMMARY JUDGMENT
MOTIONS**

A deadline for dispositive motions has been set in the above-captioned case. Any motion(s) for summary judgment **shall** comply with all Federal Rules of Civil Procedure and Local Rules, as well as this Order. Please be advised that this Order contains requirements more specific than the Local Rules and Federal Rules of Civil Procedure.

1. Joint Brief: The parties shall work cooperatively to create a single, fully integrated joint brief covering all parties' summary judgment motions, in which each issue (or sub-issue) raised by a party is immediately followed by the opposing party's/parties' response. The joint brief shall set out each issue (or sub-issue), including legal argument and citation to evidence and the joint appendix of undisputed and disputed facts (i.e., not simply to the joint appendix of undisputed and disputed facts), followed seriatim by the response with respect to that issue (or sub-issue), including legal argument and citation to evidence.

2. Citation to Evidence: The parties shall cite to relevant evidence to support

1 factual assertions throughout the joint brief. All citations to evidence shall be
 2 directly to the exhibit and page number(s) of the evidentiary appendix, (see infra
 3 at ¶ 5), or page and line number(s) of a deposition, as well as the joint appendix
 4 of undisputed and disputed facts. Parenthetical explanations are encouraged.
 5 Failure to cite to evidence in support of a factual assertion may be deemed a
 6 party's admission that it lacks evidence of that fact. Evidence not cited by a
 7 party in the joint brief may not be considered.

8 3. Unnecessary Sections: The parties need not include a "procedural history"
 9 section, since the court will be familiar with the procedural history. The court is
 10 also familiar with the general standard for summary judgment, so that need not be
 11 argued. However, if a party believes a specialized standard is applicable, the party
 12 may brief such a standard. If preliminary issues - such as burden of proof, standard
 13 of review, or choice of law - are in dispute, the parties shall brief such issues
 14 in accordance with ¶ 1, supra.

15 4. Page Limitation: Each separately-represented party shall be limited to
 16 twenty-five (25) pages, exclusive of tables of contents and authorities. Repetition
 17 shall be avoided and, as always, brevity is preferred. Leave for additional space
 18 will be given only in extraordinary cases. The excessive use of footnotes in an
 19 attempt to avoid the page limitation shall not be tolerated. All substantive material,
 20 other than brief argument on tangential issues, shall be in the body of the brief.

21 5. Evidentiary Appendix: The joint brief shall be accompanied by one
 22 separate, tabbed appendix¹ of declarations and written evidence (including
 23 documents, photographs, deposition excerpts, etc.). See Local Rule 7-6.
 24 Declarations shall set out facts that would be admissible in evidence, and shall
 25 not contain argument, see Local Rule 7-7, and physical exhibits shall be lodged
 26 separately. The evidentiary appendix shall include a table of contents.

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 28 ¹ A large appendix may be divided into multiple volumes.

1 If the evidentiary appendix in support of or in opposition to a motion exceeds
 2 50 pages, the evidence must be separately bound and tabbed and include an index.
 3 If such evidence exceeds **300 pages**, the documents shall be placed in **three-ring**
 4 **binders**, with an index and with each item of evidence separated by a divider with
 5 a tab on the right side. In addition, counsel shall provide an electronic copy (i.e., cd,
 6 dvd, or flash drive) of the documents in a single, OCR-scanned, .pdf file with each
 7 item of evidence separated by labeled bookmarks. Counsel shall ensure that all
 8 documents are legible.

9 6. Evidentiary Objections: All necessary evidentiary objections shall be
 10 made in the relevant section(s) of the joint brief.

11 7. Joint Appendix of Undisputed and Disputed Facts: The joint brief shall
 12 also be accompanied by a joint appendix of undisputed and disputed facts. The
 13 14-point font requirement of Local Rule 11-3.1.1 is waived for the purposes of
 14 this factual appendix only. To avoid a Notice of Document Discrepancy, the
 15 appendix must be entitled "Statement of Uncontroverted Facts." See Local Rule
 16 56-1. This appendix shall consist of a five column table:

17 a. The first column shall contain the number of the fact alleged by a
 18 party to be undisputed. All asserted undisputed facts shall be sequentially
 19 numbered, but shall be divided into sections clearly denoting which party is
 20 asserting the undisputed fact (e.g., D1, D2, . . . , P51, P52, . . .). Facts agreed
 21 to be undisputed need not be reasserted in later sections.

22 b. The second column shall contain a plain statement of the fact. The
 23 fact shall not be compound. If, for instance, the required response is that the
 24 fact is disputed in part, the fact is compound. Further, neither legal arguments
 25 nor conclusions constitute facts.

26 c. The third column shall contain citation to admissible evidence the
 27 party believes supports that fact. If multiple pieces of evidence are cited,
 28 parenthetical explanations of the nature and relevance of each piece of

1 evidence shall be included.

2 d. The fourth column shall contain the opposing party's/parties'
3 response to the asserted undisputed fact. The following are the only
4 appropriate responses: (1) "Undisputed"; (2) "Disputed," along with a brief
5 explanation of the dispute (e.g., "unsupported by admissible evidence," or
6 "conflicting evidence presented"). Legal argument is not an appropriate
7 response. See Local Rule 11-7.

8 e. The fifth column shall contain citation to admissible evidence
9 supporting the party's assertion of the disputed fact. If multiple pieces of
10 evidence are cited, parenthetical explanations of the nature and relevance of
11 each piece of evidence shall be included. If the party does not dispute the
12 fact, or simply disputes the sufficiency of the asserting party's evidence, no
13 citation is necessary.

14 8. Failure to Properly Dispute a Fact: A party's failure to properly dispute
15 any fact asserted to be undisputed by the opposing side shall be deemed established
16 for the purposes of resolving the motion(s). See Local Rule 56-3.

17 9. Schedule for Preparation and Filing of Joint Brief: The briefing schedule
18 for the joint brief shall be as follows:

19 A. **Meet and Confer**: In order for a motion for summary judgment to
20 be filed by the deadline for dispositive motions, the meet and confer must take
21 place no later than thirty-five (35) days before the deadline for dispositive
22 motions set forth in the Court's Case Management and Scheduling Order. It
23 shall be the responsibility of counsel for the moving party to arrange for this
24 conference. Counsel for the parties shall meet and confer in person at an
25 agreed-upon location within the Central District of California to narrow and
26 crystallize the issues to be argued in the summary judgment motion. The
27 parties shall discuss each issue to be raised in the motion, as well as the law
28 and evidence relevant to that issue, so that the parties' briefing reflects that

1 they are fully cognizant of the other side's position(s). If the briefing reveals
2 that the parties are not on the same page with respect to the issues and
3 position(s) presented, the motion shall be stricken.

4 B. No later than seven (7) days after the meet and confer, the moving
5 party shall personally deliver or e-mail to the opposing party an electronic
6 copy of the moving party's portion of the joint brief, together with the moving
7 party's portion of the evidentiary appendix and joint appendix of undisputed
8 and disputed facts.

9 C. No later than fourteen (14) days after receiving the moving party's
10 papers, the opposing party shall personally deliver or e-mail to the moving
11 party an electronic copy of the integrated motion, which shall include the
12 opposing party's portion of the joint brief, together with the opposing party's
13 portion of the evidentiary appendix and joint appendix of undisputed and
14 disputed facts.

15 D. No later than two days after receiving the integrated version of the
16 motion and related papers, the moving party shall finalize it for filing. The
17 moving party may not make any further revisions to the joint brief other than
18 finalizing the document for filing. Once finalized, the joint brief shall be
19 provided to the opposing party's counsel who shall sign it and return it to the
20 moving party's counsel no later than the end of the next business day. The
21 moving party's counsel shall sign and electronically file the joint brief, the
22 evidentiary appendix, and joint appendix of undisputed and disputed facts no
23 later than one business day after receiving the opposing party's signed copy.
24 The joint brief shall be accompanied by a Notice of Motion and Motion for
25 Summary Judgment, and shall be calendared pursuant to the Local Rules.

26 E. **Supplemental Memorandum:** After the joint brief is filed, each
27 party may file a supplemental memorandum of points and authorities no
28 later than fourteen (14) days prior to the hearing date. The supplemental

1 memorandum shall not exceed ten (10) pages in length. No other separate
2 memorandum of points and authorities shall be filed by either party in
3 connection with the summary judgment motion.

4 10. Failure to Comply with this Order: If it appears from the joint brief that
5 the parties have not discharged their meet and confer obligations in good faith, that
6 the parties have not worked to fully integrate the document, or that the parties have
7 otherwise failed to fully comply with this Order, the motion shall be stricken, and
8 the parties shall be required to repeat the process. If it appears that one (or more)
9 of the parties is primarily responsible for the failure to properly file an adequate
10 joint brief, the primarily responsible party or parties shall be subject to appropriate
11 sanctions.

12 **IT IS SO ORDERED.**

13 DATED: March 8, 2019

14 /s/
15 Fernando M. Olguin
16 United States District Judge
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